



February 15, 2024

*Via Pacer and E-mail:*

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Hon. Katherine Polk Failla

Thurgood Marshall United States Courthouse

40 Foley Square, Room 2103

New York, NY 10007

**MEMO ENDORSED**

**RE: Howard, Abdul Rahim v. Elrac, LLC et. al**  
**Case # 1:22-cv-10686-KPF**  
**LJAA File # 0413.1004.000c**  
**D/Loss: December 13, 2021**

Dear Judge Failla:

Please recall I represent defendants FedEx Custom Critical, Inc. ("FCC") and Mark Ferrari in the above referenced matter. Please allow this letter to serve as the defendants' report regarding the discovery items that were the subject of Your Honor's November 16, 2023 Order.

We received authorizations from plaintiff's counsel on November 29, 2023 and processed them within 20 days. We have continued to follow-up for those records. The status of those records is as follows:

- Advantage Care Physicians – we sent a check for the records on 1-22-24 and are awaiting same
- Alpha 3T MRI – we received an invoice and will send a check for the records and films
- CitiMed – no response to two faxes and two email requests
- Future Care Medicine - we sent a check for the records on 1-8-24 and are awaiting same
- Jason Gallina, MD – no response to fax request and follow-up
- Leroy Pharmacy – received records on 1-9-24
- Medicaid - received records on 1-9-24
- Daniel Simhaee, MD - no response to fax request and follow-up
- Stand Up MRI of the Bronx – received duplicate records
- US Penitentiary, New Canaan – requires subpoena sent to U.S. Attorney's Office
- Raymond Xu, MD – advised part of Advantage Care Physicians – we sent a check for the records on 1-22-24 and are awaiting same

I have prepared subpoenas to those providers who have not yet responded (CitiMed, Dr. Gallina, and Dr. Simahee). Attached please find a subpoena for Your Honor to be so-ordered addressed to the U.S. Attorney's Office in the Southern District of New York for the plaintiff's medical records from the U.S. Penitentiary, New Canaan, as per the directions of the U.S. Department of

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Justice, Federal Bureau of Prisons. Once you have so-ordered the subpoena, I will enclose the HIPAA release with plaintiff's date of birth and Social Security number before sending it.

Mr. Gammons did reach out to me earlier this week to offer his assistance in obtaining the records. If he can get CitiMed, Dr. Gallina, and Dr. Simahee to respond to my office's request for records, it would be appreciated.

Defendants request an additional 30 days to obtain these records. Thank you for your attention to this matter.

Very truly yours,



Jessica Klotz  
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JK/lah

Enc.

cc via ECF and email: Matthew Trafton Gammons, Esq. ([mg@rosenbaumnylaw.com](mailto:mg@rosenbaumnylaw.com))

Application GRANTED. The Court will separately endorse Defendants' subpoena and transmit that subpoena to the parties via email. The parties shall file an update on the status of discovery in this case on or before **March 22, 2024**.

The Clerk of Court is directed to terminate the pending motion at docket entry 37.

Dated: February 21, 2024  
New York, New York

SO ORDERED.



HON. KATHERINE POLK FAILLA  
UNITED STATES DISTRICT JUDGE